

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN RAYMOND KOONTZ,

Defendant.

No. CR97-2007-LRR

ORDER


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This matter appears before the court on the defendant's motion for appointment of counsel (docket no. 78). The defendant filed such motion on June 11, 2014. The court concludes that appointment of counsel is not warranted for several reasons. First, the court does not believe that it is appropriate to appoint counsel to investigate and research possible claims that the defendant thinks might be available to him. Second, the defendant already sought relief under 28 U.S.C. § 2255, and he did not rely on 28 U.S.C. § 2244(b)(3)(A), that is, move the Eighth Circuit Court of Appeals for permission to file a second or successive application in this court. Lastly, the defendant is not able to rely on *Descamps v. United States*, \_\_\_ U.S. \_\_\_, 133 S. Ct. 2276 (2013), because the Supreme Court has not made it retroactive to cases on collateral review. *See Tyler v. Cain*, 533 U.S. 656, 663 (2001) ("[A] new rule is not made retroactive to cases on collateral review unless the Supreme Court holds it to be retroactive."). The defendant cites to no case in which the Supreme Court has declared its decision in *Descamps* to be retroactively applicable on collateral review and the court's own search has not revealed any cases that have applied *Descamps* retroactively to a case on collateral review. *Cf. United States v. Hairston*, 2014 U.S. Dist. LEXIS 38683 (W.D. Va. 2014); *United States v. Davis*, 2014

U.S. Dist. LEXIS 34879 (N.D. Ill 2014); *Hunter v. United States*, 2014 U.S. Dist. LEXIS 28755 (E.D. Okla. 2014); *Wilson v. Holland*, 2014 U.S. Dist. LEXIS 16277 (E.D. Ky. 2014); *Hoskins v. Coakley*, 2014 U.S. Dist. LEXIS 7671 (N.D. Ohio 2014); *United States v. Copeland*, 2014 U.S. Dist. LEXIS 1921 (N.D. Okla. 2014); *Monroe v. United States*, 2013 U.S. Dist. LEXIS 168904 (N.D. Tex. 2013); *Baldwin v. United States*, 2013 U.S. Dist. LEXIS 167124 (D. Md. 2013); *Strickland v. English*, 2013 U.S. Dist. LEXIS 119371 (N.D. Fla 2013). In light of the record and the law, the defendant's motion for appointment of counsel is denied.

**IT IS SO ORDERED.**

**DATED** this 16<sup>th</sup> day of June, 2014.

  
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JON STUART SCOLES  
Chief Magistrate Judge  
UNITED STATES DISTRICT COURT